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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,534	07/31/2001	MaKolle Williams	WIL003USPT01	4890

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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 06/05/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,534

Applicant(s)

WILLIAMS, MAKOLLE

Examiner

Marc Jimenez

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-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 12-16** are rejected under 35 U.S.C. 102(b) as being anticipated by Ampian (5,207,755).

Ampian teaches a paint roller comprising: a handle **12** having a first end and a second end, a shaft **14** having a first end and a second end, a functional element **22** secured to the second end of the shaft **14**, and attachment means **10** interposed between and connecting the second end of the handle **12** and the first end of the shaft **14** which is configured to selectively position the tube receiving frame **22** relative to the handle **12** by providing a disengaged condition permitting repositioning of the shaft **14** relative to the handle **12** in at least two degrees of freedom, and an engaged condition preventing repositioning of the shaft **14** relative to the handle, wherein the engaged condition can be achieved with the shaft **14** in at least two different positions relative to the handle **12**. The shaft **14** can be rotated at least 60 degrees and angularly repositioned relative to handle at least 120 degrees (col. 3; lines 46-47).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-11 and 17-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ampian (5,207,755) or Cayo (3,408,676) in view of Cline (365,329).

With respect to claims 1 and 17-20, Ampian teaches a paint roller comprising: a handle **12** having a first end and a second end, a shaft **14** having a first end and a second end, a functional element **22** secured to the second end of the shaft **14**, a flexure joint **10** interposed between and connecting the second end of the handle **12** and the first end of the shaft **14**, whereby the shaft is repositionable relative to the handle between a first locked position and a second locked position. Cayo also teaches a handle **7**, shaft **3**, functional element **1**, and flexure joint **5**.

Ampian or Cayo teaches the invention cited with the exception of having a spherical member, a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector in communication with the receiving member for releasably locking the spherical member in position as between a first locked position and a second locked position relative to the receiving member.

Cline teaches a handle **H** having a first end and a second end, a shaft **I** having a first end and a second end, a functional element (attached to threads) secured to the second end of the

shaft **I**, a flexural joint **D** interposed between and connecting the second end of the handle **H** and the first end of the shaft **I**, which includes a spherical member **F**, a receiving member **E** configured to maintain and selectively engage the spherical member **F**, and a connector **G** in communication with the receiving member **E** for releasably locking the spherical member **F** in position as between a first locked position and a second locked position relative to the receiving member **E**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Ampian or Cayo with a spherical member, a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector in communication with the receiving member for releasably locking the spherical member in position as between a first locked position and a second locked position relative to the receiving member, in light of the teachings of Cline, in order to provide better incremental adjustment of the shaft relative to the handle.

Regarding claim 2, Ampian teaches that the tube receiving frame **22** rotatably secured to the second end of the shaft **14**.

Regarding claim 3, Cline teaches that the spherical member **F** is connected to the first end of the shaft **I** and the receiving member **E** is connected to the second end of the handle **H**.

Regarding claim 4, Cline teaches that the spherical member **F** is connected to the second end of the handle **H** via **C** and the receiving member **E** is connected to the first end of the shaft **I** via **F** and **J**.

Regarding claims 5, 22, 24, 26, and 28, Cline teaches that the connector **G** is hand operable for locking and releasing the spherical member **F**.

Regarding claims 6 and 7, Cline teaches that the spherical member **F** has a radius, the receiving member **E** has first and second arms **B,C**, the first arm **B** has an inner surface facing the second arm **C** and defines a depression having a circular periphery on the inner surface, the depression has a radius which is smaller than the radius of the spherical member **F**, and the spherical member **F** is sandwiched between the first and second arms **B,C** and centered within the depression through the first flange.

Regarding claims 8 and 9, Cline teaches the depression in the first arm **B** is an aperture (for **G**) extending completely through the first arm **B**.

Regarding claims 10 and 11, Cline teaches the connector **G** has a proximal end and a distal end with the distal end, with the distal end slidingly extending through a bore in one arm **B** and threadably engaging the other arm **C** so as to prevent passage of the connector **G**, completely through the bore, whereby tightening of the connector pulls the arms together to lock.

Regarding claims 21, 23, 25, and 27, Cline teaches that the shaft **I** is rotatable 360 degrees relative to the receiving member **E**.

Response to Arguments

5. Applicant's arguments filed 5/19/03 have been fully considered but they are not persuasive.

6. Applicant argues that the claimed invention is written in means-plus-function form as set out in 35 U.S.C. 112 6th paragraph. However, the claim limitations do not include the use of the “means for” or “step for” phrase.

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7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the disclosed structure allows repositioning of the functional element relevant to the handle in three degrees of freedom with a single mechanism) are not in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the mechanism of applicant's "functional element" is made of more than one mechanism, i.e. the spherical member **60**, the receiving member **80**, the connector **100**, etc.

8. Applicant argues that there is no motivation to combine the references of Ampian, Cayo, and Cline, however, as stated in the last office action and repeated in this office action, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Ampian or Cayo with a spherical member, a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector in communication with the receiving member for releasably locking the spherical member in position as between a first locked position and a second locked position relative to the receiving member, in light of the teachings of Cline, in order to provide better incremental adjustment of the shaft relative to the handle. The attachment means of Cline further allows better incremental adjustment of the handle relative to the shaft in three degrees of freedom.

9. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

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time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Interviews After Final

11. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing) to clarify issues for appeal requiring only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

Contact Information

12. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**. The examiner can normally be reached on **Monday-Friday, between 5:30 am- 2:00 pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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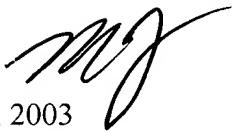
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MJ

June 2, 2003



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TECHNOLOGY CENTER 3700